

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6341

BILL NUMBER: SB 83

NOTE PREPARED: Mar 21, 2006

BILL AMENDED: Mar 14, 2006

SUBJECT: Resisting Law Enforcement.

FIRST AUTHOR: Sen. Lubbers

FIRST SPONSOR: Rep. Torr

BILL STATUS: Enrolled

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill provides that a taser, electronic stun weapon, chemical, or other device that is designed to temporarily incapacitate a person is not a deadly weapon if it is used by a law enforcement officer:

- (1) who is trained to use the weapon;
- (2) who employs the weapon in accordance with the law enforcement officer's training; and
- (3) while lawfully engaged in the execution of official duties.

It imposes a mandatory minimum sentence for a person who commits resisting law enforcement and:

- (1) draws or uses a deadly weapon, inflicts bodily injury on or causes bodily injury to another person, or operates a vehicle in a manner that creates a substantial risk of bodily injury to another person;
- (2) operates a vehicle in a manner that causes serious bodily injury to another person; or
- (3) operates a motor vehicle in a manner that causes the death of another person.

Effective Date: July 1, 2006.

Explanation of State Expenditures: Under current law, resisting law enforcement is a Class A misdemeanor. The penalty is enhanced to a Class D felony if the offense is committed using a vehicle or a deadly weapon and bodily injury is caused. If serious bodily injury is caused, the penalty is enhanced to a Class C felony, and if resisting law enforcement causes death, it is a Class B felony. Under the bill, an offender using a vehicle or deadly weapon to resist law enforcement would also be subject to a mandatory minimum term of incarceration. The term of incarceration is 30 days without prior convictions, 180 days with one prior conviction, or one year

with two or more prior convictions.

The state prison population could increase if offenders are incarcerated for a longer period of time. However, the increase in cost will be based on the offender's past criminal history. Based on releases in 2003 and 2004, the average length of stay in Department of Correction (DOC) facilities for all offenders convicted of Class D felony resisting law enforcement was 171 days. If an offender convicted of resisting law enforcement serves 180 days or 1 year in a state correctional facility instead of the average length of stay of 171 days for these offenders, costs could increase for the state. There were 306 offenders convicted of Class D felony resisting law enforcement released from state facilities in 2003 and 254 released in 2004.

The average expenditure to house an adult offender was \$20,977 in FY 2005. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$62,292.

Background on Felony Resisting Law Enforcement: On average, between 2000 and 2004, there were 10 offenders a year committed to a state correctional facility for Class B felony resisting arrest, 4 offenders a year committed for the Class C felony crime, and there were 230 offenders committed for the Class D felony.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts.

Information Sources: Indiana Sheriffs' Association, Department of Correction.

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